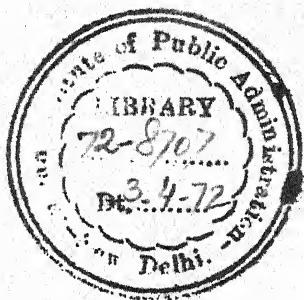


# STATE-MUNICIPAL RELATIONS

A Functional Analysis



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# STATE-MUNICIPAL RELATIONS

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## A Functional Analysis





## PREFACE

This study was undertaken primarily with a view to understanding how the State functional departments deal with the municipalities. A four-State sample was drawn and a separate function was taken up for each State. The interactions around each function and the general conclusions arrived at from them serve to illuminate a sub-area of State-Municipal relationship which has remained virtually unexplored in this country. It can be seen from this small study that there is considerable scope for launching research investigations into State-Municipal functional relations from a variety of angles. The research design for this work was formulated by the author in collaboration with his colleague, Shri Abhijit Datta, who had also shared the joys and troubles of the field trips for which the author is grateful to him. Prof. G. Mukharji, then the Director of the Municipal Centre, gave his encouragement and released funds from the not-too-flexible budget of the Centre for which the author is indebted to him. Prof. Deva Raj, the present Director, was kind enough to write the Foreword for which the author is grateful to him. In gathering field data and information, the officers of the four State Governments and the Municipalities extended full cooperation; the Municipal Councillors also were kind enough to render help. The author takes this opportunity to express his gratitude to all of them. For any error or omission in this study the author, of course, does not expect anybody to share the blame.

New Delhi  
February 1972

MOHIT BHATTACHARYA



## FOREWORD

Both scholars and those directly involved in the working of urban local bodies have, in recent years, evinced considerable interest in the legal provisions for supervision and control of municipal administration by the State Government as well as in the extent and the manner in which these powers have been exercised by the concerned departments in the State Governments. The Central Council of Local Self-Government as well as the Rural-Urban Relationship Committee (1966) have emphasised the need of organising well-equipped directorates at the State-level which would perform the house-keeping functions and strengthen the financial, legal and administrative organisation of the urban local bodies. The municipalities, however, undertake a wide range of functions which are, at the State level, the concern of the various departments, particularly those dealing with health, education, social welfare and housing. Besides, there are other Government organisations that are concerned with the development of urban infrastructure. Not much attention has been paid and no policies have been initiated or developed regarding the relationship between the various functional State departments and the municipal authorities. It is evident that with the expanding activity of the State Governments in the field of social services, it is necessary to develop the capabilities of local authorities to enable them to share the burden of these national tasks in so far as they relate to the actual delivery of services in the local areas. Otherwise, the departmental agencies at the Central and State levels would be overwhelmed with the enormity of the tasks to be handled in the field. They will also not be able to perform their appropriate tasks of giving necessary support and guidance by making available to local bodies new techniques and organising research as well as promoting broader policies of planning and development for the expansion of the services both qualitatively and quantitatively.

Dr. Bhattacharya has made a pioneer attempt at identifying some of the problems that arise in dealing with this area of functional activity between the urban local bodies on the one

hand and the respective Departments of the State Governments on the other. This is a field that requires to be investigated into. Dr. Bhattacharya has made studies only in four States each in respect of a different function such as water supply in Gujarat, road development in Tamil Nadu, education in Maharashtra and public health services in West Bengal. There are, however, considerable variations in the matter of institutional organisation and working relationship that exist between the State Departments and the municipalities in different parts of the country. Dr. Bhattacharya's study is a pointer to the need of comparative evaluation of the systems prevailing in different States in respect of each of these various functions and it may be possible to identify workable patterns that can be adopted with local adjustment.

Nevertheless, some of the broad conclusions that have emerged from this limited study would be of value to the administrators and policy-makers at the State level in as much as they point to the need of at least minimising unnecessary obstacles to the decision-making processes to ensure quick disposal of municipal works.

The Centre is thankful to Dr. Bhattacharya for the valuable contribution to this relatively unexplored field of State-municipal relations. I hope that this will pave the way for further research in this area by scholars engaged in the study of municipal administration.

DEVA RAJ  
*Director*

NEW DELHI-1  
FEBRUARY 19, 1972.

CENTRE FOR TRAINING & RESEARCH  
IN MUNICIPAL ADMINISTRATION.

## CONTENTS

	Pages
FOREWORD	
PREFACE	
CHAPTERS	
1 The Conceptual Framework	1
2 State-Municipal Relations	6
3 Water Supply in Gujarat	10
4 Primary Education in Maharashtra	19
5 Roads in Tamil Nadu	31
6 Medical and Health Services in West Bengal	37
7 Summing up	48
Select Bibliography	60



# 1 THE CONCEPTUAL FRAMEWORK

This study is on the theme of central-local relationship. In conceptualising federal-state relationships, the theory of federalism is quite well-developed. Strangely enough, central-local relationship is yet to produce a theory, which naturally renders the present study difficult. Discussions on local government and central-local relationship are often made on *ad hoc* basis without going into the basic framework of relationship of the two levels of government. To quote Professor Mackenzie<sup>1</sup>, "There is no theory of local government. There is no normative general theory from which we can deduce what local government ought to be; there is no positive general theory from which we can derive testable hypotheses about what it is. In fact, the subject is a very base one, if we measure it by academic standards; it has seldom been treated with elegance and precision, and if you scan the textbooks of political thought you will find no accounts, or very shoddy accounts, of theories about local government."

Although what Prof. Mackenzie has said is, to a large extent, true; during the British regime there were conscious attempts by the then reformers to evolve local government according to certain principles which were influenced by the general tenor of contemporaneous English political thought. Lord Ripon's famous Resolution bore the stamp of English Utilitarianism. John Stuart Mill elaborated his ideas about 'local representative bodies' in his *Considerations on Representative Government* which was published in 1861. One of the chief reasons for having local government, according to Mill<sup>2</sup>, is that "its transaction can

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<sup>1</sup>W.J.M. Mackenzie, *Theories of Local Government*, Greater London Papers, No. 2, The London School of Economics and Political Science, 1961, p. 5.

<sup>2</sup>John Stuart Mill, *Utilitarianism, Liberty and Representative Government*, (introduction by A. D. Lindsay), J. M. Dent and Sons Ltd., London, 1954, p. 347.

be made most instrumental to the nourishment of public spirit and the development of intelligence". Basically, Mill valued local government as 'the public education of the citizens'. The Ripon Resolution on local self-government was in consonance with the Utilitarian philosophy. Note this passage in the Resolution :

"In advocating the extension of local self-government, and the adoption of this principle in the management of many branches of local affairs, the Governor-General-in-Council does not suppose that the work will be in the first instance better done than if it remained in the sole hands of the Government District Officers. It is not, primarily, with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political and popular education."<sup>3</sup>

The Resolution envisaged 'the small beginnings of the independent political life' through the introduction of local government and the supersession of 'the more autocratic system'—the District Administration.

Later constitutional reforms did not lose sight of the role of local government in the total framework of government. The Decentralisation Commission (1909) recommended almost a total elimination of official control and conferment of freedom on the municipal bodies to raise local taxes and to have complete control over their budgets. The next impetus came from the Montagu-Chelmsford Report (1918) which insisted on the educative principle, advocated extended franchise and pleaded for complete popular control in local bodies. According to the Ripon Resolution, the 'autocratic system' of district administration should gradually give way to local government and the District Officer was to watch the performance of local bodies at best from without. The Montagu-Chelmsford Report went a step further and observed, "We shall be asked, what room is left for such all-pervading official activity (district administration), since all towns of reasonable size have been made into municipalities, and since rural affairs are committed to district



or local boards ?”<sup>4</sup> The Report admitted that the origin of District Administration could be traced to the ‘imitation of the quasi-military organisation of the Moghul empire’ which was incompatible with the conception of local administration through the local representative bodies. The latter idea, as the Report candidly remarked, was a “totally different conception of administration which springs from English political thought”.

In response to rising Indian political demands, Indian constitutional reforms in subsequent years were directed more and more toward the provincial and central governments. Local government was gradually receding in the background. Later the Simon Commission made a sweeping but insightful survey of the state of local government and harked back to the original Ripon Resolution in an admirable attempt to clarify the nature of local self-government in the country. The observations of the Simon Commission are well worth quotation :

“Systems of local self-government fall into one or other of two well-defined types, which we may call the British and the Continental. In the former, government is decentralised. Local bodies with wills of their own exist. They initiate and carry out their own policies, subject only to such powers of direction and control as are retained by the Central Government. They appoint, subject, it may be, to regulations as to qualifications, their own staff, and raise in the main their own revenue. They form, in fact, a detached system. They are not a mere subordinate part of the governmental machine. Under the continental system, on the other hand, government is deconcentrated. The principal local official is not the servant of the elected representatives of the locality, but is essentially an official of the Central Government, sent down to a particular locality to carry out part of the work of the Central Government. He may or may not be assisted by an advisory council, to which, perhaps, a few powers of deciding policy have been conceded, but the will that operates in the sphere of local administration is that of the Central Government, not that of the people of the locality. Now, prior to the Reforms, local self-government in

India belonged essentially to the second, or deconcentrated type : it resembled the French, rather than the British system. The District Officer in India, like the French Prefect of a Department, was an officer of the Central Government operating in a particular district. As Chairman of the District Board, and often of one or more municipalities, he was carrying out the will of his official superiors. He was just as much the eyes, ears and arms of the Provincial Government as when functioning as revenue officer or district magistrate. Local self-government was just one of his many activities. He regarded his staff as available to assist him in all branches of his work. A single will operated in all spheres of activity in the district."<sup>5</sup>

There cannot be a more precise statement of the nature of local self-government which the British wanted to introduce and develop in India. There was hardly any confusion about the theory of local self-government which was expected to govern the actual shape of local institutions. It was under this overarching conception that urban local government in British India grew up and developed since the enunciation of the Ripon Resolution.

The contemporary confusion about the role of municipal government in India (and local government as a whole) stems from an utter lack of clarity about the *concept* of local government. In France, the integration of local government with the state follows from the French theory of unified state which reduces local government to the status of an integral part of the whole state apparatus.<sup>6</sup> Contrastingly, gradual political development in Britain led to the establishment of a theory of local government that upheld the idea of a separate local will distinct from the will of the whole state. According to the English conceptualisation, a local government unit is more than a corporate body, it is a 'government' in its own right deriving the authority to govern not from a superior government but from the popular will of a specific locality. The individual's right to participate in community government has its roots in the theory of social contract of the Lockian variety.

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<sup>5</sup>*Report of the Indian Statutory Commission*, op. cit., p. 301

<sup>6</sup>See Brian Chapman, *Introduction to French Local Government*,

Even during the British regime, the shape of local government changed considerably for obvious reasons of imperial rule. The existence of the government-appointed commissioner in a corporation was as much incompatible as the supervision of the District Officer over the municipal bodies. But the only saving grace was that the British rulers were conscious of the incompatibility and candidly confessed it in their constitutional evaluations. After Independence, the English theory of local government has been further eroded and almost pushed to the background. Local government is born out of a desire to decentralise powers. Unfortunately, at the higher levels of government such desire is rarely to be found today. The general rise of opposition politics in municipal government has often been construed as a challenge to State authority. Political opposition as an indispensable part of government is yet to be accepted as an element in our political value system. Currently, the trend seems to be to integrate municipal institutions with the State government, which, if it continues unabated, will lead eventually to the emergence of a type of local government very much akin to the traditional French system. Our municipal enactments abound in constrictive provisions which come close to the French system of 'tutelage'. The District Administration has the making of the French Departmental organisation under the all-powerful Prefect. If municipal autonomy is not bolstered up by the dominant political parties in India, there is every possibility of the steady evolution of a concept of municipal government as an appanage of the higher level governments. It is against this background that State-municipal relations have been examined in this study.

## 2 STATE-MUNICIPAL RELATIONS

More than in any other country State-municipal relationship in India needs to be critically examined because of national commitment to planned development. The apparatuses of public administration available at different levels of government are expected to be involved in the process of development. At the local level, municipal government is engaged in the administration of key community facilities such as water supply, education, roads, sanitation and public health, and is statutorily empowered to exercise important regulatory powers including issue of trades licences, abatement of nuisances, regulation of buildings construction and markets and slaughter houses. The way in which urban areas are managed by the municipal authorities has an important bearing on the progress and prosperity of not only those specific areas but also their command or influence areas well beyond their legal jurisdictions.

Constitutionally, municipal government falls within the province of State government which has, thus, the powers to determine the structure, functions and financial resources of the municipal authorities. Due to historical reasons, municipal government could not flourish in India as a self-reliant and virile institution, and in spite of sporadic attempts substantially to disentangle it from the State government and its field agencies, the laws and administrative practices have remained as restrictive as ever and the State governments, in general, have continued to play a rather negative role of a policeman goading the municipal authorities to action and penalising them for their sundry aberrations. As a recent Committee Report has observed, "The State Government's supervision and control is at present mainly directed towards securing the proper performance of the functions entrusted to local authorities without any conscious effort to make local government institutions grow."<sup>1</sup>

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<sup>1</sup>*Report of the Rural-Urban Relationship Committee*, Vol. I, Ministry of Health and Family Planning, Government of India, 1966 p. 116.

The constitutional status of the State coupled with the paternalistic tradition of governance has placed the State government in a vantage position from where it can formulate policies either to make or break municipal government. This highlights the crucial importance of State-Municipal relationship in India, and the interaction processes between the two levels of government studied in four selected States serve to illustrate the trend of State attitude toward municipal government in this country.

In common parlance, State-municipal relations stand for nothing more than the interactions that take place between the State level house-keeping department, *viz.*, the local self-government department<sup>2</sup> and the municipal authorities. What loom large in the public mind are the controlling and supervisory powers of this department such as those relating to inspection and direction, default action, annulment of decisions, approval and sanction, removal of members, suspension and supersession. No doubt the local self-government department plays a vital role in the life and work of the municipal authorities; but its operation alone does not exhaust the entire gamut of State-municipal relations. The State level functional departments also have important contacts with the municipal bodies. As the municipalities are multi-functional authorities, their relationships with the State functional departments follows logically from their nature and organisation. An account of State-municipal relations will thus be incomplete without a discussion on the interaction process between the State functional departments and the municipal Bodies.

From the standpoint of ground level operation, the municipalities are perhaps more interested in successfully making contacts with the State functional departments than dealing with the local self-government department. For, what matters most to a municipality is the assistance it can get from the State in meeting the local need for a specific service such as water-supply, drainage and sewerage, education and so on. More often than not, the advice and directions of the local self-government department are looked at by the municipal bodies

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<sup>2</sup>It is differently named in different States.

as mere routine jargon and irksome policing. To them a positive technical or financial help counts more than a sermon or an admonition. This explains the predicament of the house-keeping department where it stands shorn of any technical portfolio. It also offers a challenge to this department as it is called upon to coordinate the diverse threads of State level contacts with the municipal authorities.

The present study is not concerned with the role of the local self-government department in relation to the municipal bodies.<sup>3</sup> It concentrates exclusively on the intricate operational relationships between the State functional departments and the municipal authorities. The guiding purpose in undertaking this research work has been to shed light on this rather obscure aspect of State-municipal relations which has, by and large, gone unnoticed so far by the researchers. It was hypothesised at the start of the study that the horizon of State-municipal relations can be extended by a critical examination of this aspect, and there is a plurality of State attitudes to municipal government that can be traced to the web of vertical contacts running through the State technical departments and the municipal authorities. With this end in view, four municipal services were selected, one each from a particular State in the following order : water supply in Gujarat, primary education in Maharashtra, public works (roads) in Tamil Nadu and medical and health services in West Bengal. In each State, the organisation of the State Government administering the specific service has been studied and its relationship with the municipal authorities examined. To study in depth the working relationships between the State departments and the municipalities, case studies were undertaken in each State. The interaction process was thus sought to be probed through the media of specific case histories exposing the actual relational nuances. In each State, cases were picked up from one or two municipal authorities in course of informal discussions on their civic problems. The cases cited by them were later verified from documentary evidence and the entire process of interaction between them and the State departments was closely examined from correspondence files and other municipal documents.

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<sup>3</sup>This has been discussed in an earlier study, *e.g.*, Mohit Bhattacharya, *State Directorates of Municipal Administration*, Indian Institute of Public Administration, New Delhi, 1969.

Because of dissimilarities in the nature of the specific services taken up State-wise, inter-State comparison of functional relationships has not been attempted in this study. The four-State sample was selected mainly to extend the coverage of municipal services and partly to draw some conclusions about the general attitude, if any, of the functional departments to the municipal authorities.

It needs to be emphasised that municipal government in each State has to function within the ambit of specific laws which determine the basic nature of State-municipal relations. Besides, the State's behaviour towards the municipal authorities at a point of time is influenced by a variety of important factors such as the nature of State and municipal politics, the health of municipal government, and the 'tradition' of State attitude to municipal bodies. The interactions between the State functional departments and the municipal bodies take place within this overall environment of State-municipal relations. Thus conceived, the present study is admittedly a partial analysis of inter-governmental relationships.

Now, a few words about the method of preparation of this study will be in order. A chapter each has been devoted to a particular State, where the formal statutory position of the service in question has been explained ; the salient features of the State organisation dealing with the service have been discussed ; and selected case histories of State-municipal interactions over the local service narrated. In the last chapter an attempt has been made to weave these diverse materials into a coherent theme and to distill some general conclusions about State-municipal relations as a whole.

### 3 WATER SUPPLY IN GUJARAT

Under Section 87 of the Gujarat Municipalities Act, 1963, water supply is an obligatory municipal function. The Act also specifies other incidental duties relating to water supply such as analysis and inspection of water supplied through pipes and control and regulation of sources of water. Oddly enough, the levy of water rates and charges is discretionary under Section 99. In practice, the municipalities impose water rate as a percentage of the annual rental value and/or water charges on the basis of metre measurement. It is optional for a municipality to appoint an engineer but the State Government may direct a municipality to appoint an engineer in which case the appointment becomes obligatory.<sup>1</sup> To ensure supply of quality water all municipalities having piped water supply system must take steps at certain intervals to ascertain the condition of the water supplied by inspection and analysis at a laboratory approved by the State Government. Any particular municipality may, however, be exempted from this provision by a State Government notification.<sup>2</sup>

So far as the provisions of the Act are concerned, 'water supply' seems to have been dealt with in a very general way, and there is considerable scope for improvement in the statutory stipulations. Laxity in law has a tendency to breed laxity in administration. So, the legal provisions relating to water supply need to be so inserted that the municipal authorities could be made to feel about their crucial role in providing this essential civic service. On the problem of proper financing of water supply, the provisions of the Act are perhaps the weakest. As already pointed out, like all other taxes, water rate is optional in law, and there is no provision for the capital financing of water supply projects. It is now widely accepted that in most cases municipal water supply system runs at a loss mainly

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<sup>1</sup>Section 47 of the Act.

<sup>2</sup>Section 90 of the Act.



because of lack of consciousness about the need for efficient management of this service. Under Indian conditions, if this vital civic service is to be retained in municipal hands, municipal law has to be properly amended to inculcate the spirit of managerial efficiency. In this respect, there is much that is commendable in the Maharashtra Municipalities Act, 1965. Section 50 of this Act makes elaborate provisions to ensure that 'water supply' is actually undertaken as an obligatory municipal function. Of course, the timely enforcement of these salutary provisions would call for a regular watch on the performance of the municipal bodies, especially the weaker ones, by a properly equipped State machinery.

With growing industrialisation, Gujarat has been facing the problem of water pollution through trade and sewage effluents and other noxious industrial wastes. It is felt that the existing provisions of the municipal Act are not at all adequate to deal with this problem. In fact, the Gujarat Legislature was one of a number of State Legislatures that passed resolutions asking the Parliament to pass necessary legislation on all-India basis for tackling the problem of river water pollution. At the time of field interviews, it came to light that the Gujarat Government was seized with this problem and was thinking of framing necessary legislation and equipping the State Public Health Department to come to grips with the water pollution problem.<sup>3</sup> Now that the Central Government would be drafting a legislation for the purpose, it will be easier for the States to adapt its provisions to their local situations. Strangely, however, pollution of air has not attracted the same attention as pollution of water, and in near future both will perhaps have to be tackled with equal urgency.

### *State Level Organisation*

At the State level, the Secretariat department responsible for 'water supply' is the Panchayats and Health Department which has the coordinating focus in a single Secretary. It is divided into four departments, namely, Public Health Department,

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<sup>3</sup>See *Material Required by the Administrative Reforms Commission, Government of India*, General Administration Department, Government of Gujarat. Vol. I. n. 444.

Municipal Administration and Town Planning Department, Health Department, and Panchayats Department. So far as the water supply function is concerned it is the Public Health Department which is specifically charged with its administration. Prior to 1964, the Public Health Section was a part of the Public Works Department. Presently, the Department is headed by the Chief Engineer, Public Health, who is also *ex officio* Joint Secretary to the Panchayats and Health Department.

The Public Health Department is organised with a view to rendering technical advice and assistance to the local bodies, both urban and rural. Below the Chief Engineer, there are two Superintending Engineers, each in charge of a circle office. The two circle offices are located at Rajkot and Ahmedabad respectively. Under one Superintending Engineer there are five divisional offices, each headed by an Executive Engineer. At the level of the divisional office, a distinction has been made between the work for urban areas and that for rural areas. Thus under the Ahmedabad circle, of the five divisional offices three are engaged on urban water supply schemes and the remaining two deal purely with rural schemes. Below the divisional level, there are sub-divisional offices headed by Deputy Engineers. Investigation and preparation of plans for water supply are initiated by the Deputy Engineers who submit the plans to the Executive Engineers. Through the Superintending Engineer, the local schemes are forwarded to the Government. As the Chief Engineer in charge of Public Health has been made *ex officio* Joint Secretary to the Panchayats and Health Department, this arrangement is understood to have facilitated speedy Governmental action.

The Public Health Department has framed rules and regulations for the water supply and drainage schemes of the local bodies. A municipality willing to undertake a water supply scheme has to give an undertaking to raise enough resources for implementing the scheme within a reasonable time from their own funds or from public contributions. The State Government has evolved a pattern of grant-in-aid for the water supply schemes under which a municipality having a population exceeding one lakh is given 20 per cent of the cost of a water supply scheme. Municipalities having a population between one lakh and 50,000

are given 30 per cent of the cost of the scheme and others having population less than 50,000 get 35 per cent of the cost of the scheme.<sup>4</sup>

Incidentally, the municipalities have to be prepared to undertake water supply schemes from their own resources in the first instance, and Government grant-in-aid is made much later. The plans and estimates of the schemes prepared by the municipalities are scrutinized by the Government in the Panchayats and Health (Public Health) Department. All public health works costing Rs. 5 lakhs and more are executed by Government through its own agencies and works costing less than Rs. 5 lakhs can be executed by the municipalities, if they so desire. In the latter case, however, works will be supervised by the Public Health Department and centage charges will be recovered at the rate of 6½ per cent of the total cost of works. The proposal of a municipality willing to undertake a water supply scheme must be accompanied by a certificate from the Examiner, Local Fund Accounts. This is to make sure that the financial position of the local body concerned is sound. The municipality will have to take full responsibility for maintenance and repairs including recurring charges and depreciation, once the scheme is completed. Also, it must levy adequate water charges for these purposes.

The minimum standard of water supply has been fixed as 30 gallons per head per day, as per the Union Ministry of Health's *Manual of Water Supply*. The Department feels that underground drainage is necessary before the supply could be increased beyond 15 to 20 gallons per head per day. In financing the water supply schemes, the municipalities have to approach the State Government in most cases for loan funds since municipal borrowing has to be guaranteed by the State Government. Previously the Government used to charge fees for standing guarantee. But under a recent Resolution<sup>5</sup>, the Government has decided not to charge any fees from the

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<sup>4</sup>Vide Panchayats and Health Department Resolution No. MWS-1163/6058/KH dated August 18, 1967.

<sup>5</sup>Vide Government of Gujarat, Finance Department Resolution No. NNM-1067-3393-2 dated June 30, 1967.

municipalities for their non-commercial activities. The municipal water supply schemes are covered by this Resolution.

Regarding personnel matters, apart from determining the qualifications of the municipal engineer, the State Government has no other control over municipal personnel engaged in water supply work. But, it is obligatory on the part of a municipality to appoint an engineer when directed to do so by the State Government.

### *State Water Board*

There is a State Water Board in Gujarat consisting of six official members and eleven non-official members. The Chairman and the Vice-Chairman of the Board are respectively the Minister and the Deputy Minister in charge of Health. The other official members are the Secretary and the Chief Engineer of the Panchayats and Health Department, the Chief Engineer of the Public Works Department and the Chief Inspector of Factories. The non-official members are a mix of experts and public men. The Board's jurisdiction extends to both urban and rural areas of the State; therefore, a number of representatives of the district panchayats has also found place in it. The function of the Board is mainly to advise the State Government in all matters pertaining to water and drainage schemes and water pollution. All water supply schemes proposed by the municipalities are placed before and approved by the Board before issuing administrative approval and technical sanction by the Government.

At this stage, it may not be out of place to say a few words about the organisation of the Department of Panchayats and Health. This Department is charged, among other things, with the responsibility of supervising, assisting and advising the municipal bodies. It is eminently suited to undertake these tasks, as apart from its housekeeping role, it has a few important functional responsibilities in the fields of town planning, public health engineering, and health and medical services. With these charges, the Department is well equipped to render advice and assistance to the municipalities in their attempts to solve the basic civic problems relating to public health and planning. So far as the Public Health Department is concerned, it seems

that there is scope for its structural and functional diversifications. At the time of the formation of the new State of Gujarat in 1960, there was only one circle office at Ahmedabad to look after the public health problems of the entire State. The other circle office at Rajkot came into being in 1964. Since then, there has not been much of a change in the public health engineering organisation of the State. As the Department (of Public Health) has to look after both urban and rural areas and its work load has been consistently increasing, it has been felt that a few more circle offices and several divisional and sub-divisional offices have to be set up.<sup>6</sup> So far, public health has, however, been very narrowly conceived mainly in terms of water supply, and sewerage and drainage. The departmental organisation has naturally been limited to facing these problems. But, as earlier pointed out, there are some other emergent public health problems relating to the pollution of air and water which need speedy departmental attention. Once these new functions are seriously taken over, there will be need for commensurate changes in the departmental organisation.

### *Case Study in a Municipality*

To find out the actual working relationship between the Panchayats and Health Department and the municipal authorities, a case study was done of a water supply project in a municipality falling within the jurisdiction of the Ahmedabad Circle Office of the Public Health Department. The Municipality, under study, is a medium-size town with nearly 40,000 population, which did not enjoy the benefit of piped water supply system before the birth of the new State of Gujarat. A very humble beginning was made in 1960 to supply 10 gallon per head per day. Three years later with the help and advice of the Public Health Department, the water supply scheme was properly planned for execution in three stages. With the construction of an overhead tank and a bore tubewell, the per capita supply was raised to 13 gallons, and at the time of the field survey the supply rose to 15 gallons per head per day. It was said that the delivery system was able to double the existing supply, but further expansions were not being made mainly because of the absence of

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<sup>6</sup>Material Required by the Administrative Reforms Commission, op. cit., p. 444.

suitable measures for the disposal of waste water. The Municipality was, therefore, actually considering early introduction of the underground sewerage scheme. At present, only about a quarter of the municipal population is covered by the piped water supply system. House connections have, however, been increasing steadily. There were hardly 100 connections in 1960; these rose to about 1000 in 1968. Charges for water were being made at differential rates for domestic and commercial consumptions. In fulfilment of the statutory requirement, annual analysis of water is got done by the Municipality at the laboratory of the Ahmedabad Municipal Corporation.

As our primary concern is the interaction process between the State and the Municipality, we may now turn to the three stages of the water supply project to narrate the involvement of both parties in it. The first stage revolved round the construction of the overhead tank and the laying of main pipelines of 9" diameter. This work was planned and executed by the State Public Health Department. Regarding financing, twenty per cent of the total project cost was given by the State Government as grant-in-aid, and the balance was borne by the Municipality. During the second stage, the distribution lines were laid, and following the plan made by the State Department, the entire work was carried out by the Municipality. The ratio of State grant remained the same. During the third stage, there was a sudden set-back in State-Municipal relations, and the work got stuck up allegedly due to the delay in Government sanction. It was intended to increase, in the third stage, the distribution lines further and extend the coverage up to one half of the municipal population. There was a distinct possibility of an enhancement in State grant-in-aid at this stage.

The proposal for undertaking the work during the third stage was passed by the Municipal Council as far back as 1963. In October that year the proposal was sent to the Government for sanction. After that, the Municipality went on issuing reminders to the State Government to expedite action in the matter. But, reportedly, the State Government did not do anything at all and kept silent throughout. On 18th March, 1965, the Executive Engineer (Public Health) wrote to the Municipality enquiring about certain details about the scheme. Accordingly,

the Municipal Engineer went personally to Ahmedabad to clarify the points raised. The Municipality also moved the Director of Municipal Administration requesting him to contact the authorities concerned so that the scheme could be executed expeditiously. The Director then wrote to the Superintending Engineer on 17th September, 1965, with a request to expedite sanction of the scheme. The Executive Engineer forwarded the scheme to the Superintending Engineer on December 6, 1965. The Superintending Engineer called for a copy of the resolution passed by the Municipal Council in which the Municipality expressed its willingness to bear the entire cost of the scheme pending availability of Government grant. But no such copy could be forwarded, as a resolution to that effect was not passed by the Municipality. Actually, it could not be placed before the Council due mainly to political reasons. The Council was at that time sharply divided on this issue. After the general election in August, 1967, the new Council had come into being. The present Council is understood to have evinced keen interest in the speedy execution of the scheme. At the time of field interview, it was pointed out that the long-awaited resolution would now be placed before the Council, and it was expected that there would not be any difficulty in getting it through the new Council.

It is noteworthy that during the period from December 15, 1965 to January 15, 1967 no reminder was issued by the Municipality to the State Government for expediting the work. The Municipal Engineer had meanwhile left and the post was lying vacant. Only when the new Engineer joined in December 1967, that the case was again taken up with the State Government.

An interesting feature of this water supply episode is that the local people, the consumers, were very keen to avail of the benefit of piped water supply, and on an appeal by the Council, they had even rendered financial assistance to the Municipality in a novel way. They willingly deposited the entire cost of laying pipes in the mohallas. The deposits were interest-free and returnable after the expiry of five years from the date of making the deposit. At the request of the Municipality, the State Government gave sanction to the proposal for the receipt of deposit from the public for water connections.<sup>7</sup>

<sup>7</sup>Vide Resolution No. GMA-1266/1842/DH dated 22-4-1966.

The above episode serves to illuminate the interaction process between the State Panchayats and Health Department and the Municipality. Undoubtedly, the combination of house-keeping and functional responsibilities in a single department has been beneficial for the Municipality, as the latter could get things done much more quickly through the mediation of the house-keeping department, *i.e.*, the Directorate of Municipal Administration. The functional wing—the Public Health Department—had extended its technical assistance in the planning, investigation, preparation and implementation of the municipal water supply scheme. Launching of water supply schemes has been generally encouraged through the introduction of the grant-in-aid formula and the waiver of charges for standing guarantee for municipal loans. Apart from these general policies, sanction was specifically accorded to the Municipality, under study, to facilitate acceptance of deposits from the public. These are definite indications of a progressive State attitude toward municipal functional stimulation.

At a particular stage of the implementation of the water supply scheme, it appeared as if the Public Health Department was holding up progress. But, on further scrutiny, the root cause of operational deadlock was discovered in Council politics. The end result was that a municipal project which received the willing cooperation of the public was baulked by local power politics.

This water supply episode also reveals a rather disconcerting feature of State-Municipal relations. The Municipality is utterly dependent for technical assistance and expertise on the State Public Health Department, and there is hardly any attempt to organise a well-equipped municipal engineering department that can stand on its own feet. Under existing arrangements the Municipality just provides the money, and the State technical Department does the job for it. In consequence, the trend is that the State technical Department is expanding at the cost of the Municipality. Evidently, such over-dependence cuts at the very root of local discretion, and it is inimical to the growth of self-reliant municipal government.



## 4 PRIMARY EDUCATION IN MAHARASHTRA

The administration of primary education in Maharashtra has a chequered history.<sup>1</sup> Although in the old Bombay State the municipalities started functioning as early as 1850, they were not given power to administer primary education for a long time. It was the State Education Department which was directly responsible for the administration of primary education within the municipal areas. Since 1865 the municipalities were permitted to make some contributions towards expenditure on primary education within their specific areas. Later the Indian Education Commission (1882) recommended that within the area of each municipality the municipal authority should be authorised to administer primary education and for this purpose a grant-in-aid should be given to the municipality not exceeding one third of its total expenditure on primary education. Accordingly, in 1884 all the municipalities were authorised to undertake responsibilities in the sphere of primary education and State grant-in-aid was increased to 50 per cent of the approved expenditure. During the First World War, it was found that most municipalities, especially the smaller ones, were facing great difficulties in shouldering the burden of expenditure on primary education. So, in 1923 the Bombay Primary Education Act was passed which divided the municipalities into two categories. The bigger and richer municipalities came to be called "Local Authority Municipalities". The remaining municipalities were called "Non-Local Authority Municipalities". The former class of municipalities continued to administer primary education in their areas and were given a grant-in-aid to the extent of fifty per cent of their total approved expenditure. The administration

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<sup>1</sup>The historical material is taken mostly from *Primary Education in the State of Bombay : A Report on Integration and Development*, Vol. I, Government of Bombay, 1961. This report also contains valuable information about administrative and financial problems relating to primary education.

of primary education within the areas of the non-local authority municipalities was entrusted to the district school boards. The measure, it was felt, would greatly relieve the smaller and less affluent municipalities of their financial burden. Although the Bombay Primary Education Act, 1923, introduced the classification of municipalities into two groups, no definite basis for the classification was prescribed in law. It was left to the State Government to decide by executive orders the principles of classification. Accordingly, for the classification of the municipality as a local authority municipality the following conditions were prescribed :

- (i) The population of a municipality should be not less than 35,000.
- (ii) The total expenditure of the municipality on primary education should be not less than Rs. 50,000.
- (iii) The Administration of the municipality should in general be efficient.

The proposal to classify a municipality as a local authority municipality would very often be initiated by the municipality itself and sometimes also by the State Education Inspectors. Before taking a final decision the State Government generally used to consult the collectors and commissioners concerned.

This procedure remains almost unchanged even today. The 1923 enactment was replaced by the Bombay Primary Education Act, 1947, which presently governs the administration of primary education in Maharashtra. In the new Act, two important changes have been made. First, the old nomenclature—local authority municipality—was substituted by the term “authorized municipality”, and the non-local authority municipality came to be called “non-authorised municipality”. Secondly, the number of authorised municipalities was reduced by converting the old local authority municipalities, which were unable to bear 50 per cent of the expenditure on primary education, into non-authorised municipalities. The restricted nature of State policy in Maharashtra could be evidenced from the fact that out of 223 municipal authorities in Maharashtra, only 80 have been declared as authorised municipalities. Primary

education within the areas of all other non-authorised municipalities is administered by the respective zila parishads. The State government has, however, power to convert a non-authorised municipality into an authorised one; similarly, the State can at any time direct that an authorised municipality will cease to be such with effect from a specified date.

### *Municipal School Board*

Under the existing law, every authorised municipality is required to elect a municipal school board and, subject to general control by the municipality, the school board is authorised to carry on the administration of primary education within the municipal area in accordance with the provisions of the Bombay Primary Education Act, 1947 and the Rules made thereunder. Section 4 of the Act lays down the composition of the school board : (a) Every school board will have from 12 to 16 members, as may be fixed by the Government. (b) The members of the school board need not necessarily be the members of the municipalities. (c) Of the board members not less than two and not more than three are appointed by the State Government. (d) One of the State nominees is an officer of the State Government, and the other nominees must have passed the matriculation examination or must possess any other equivalent or higher educational qualifications as may be prescribed by the State Government. There is also provision for the reservation of seats for the backward communities. There is a convention to include a woman or two as members of the school board. The members other than those appointed by the State Government are elected by the authorised municipality. The term of office of the members of the school board is coterminous with that of the municipality, i.e., four years, and the chairman and vice-chairman of the school board are elected from amongst the members of the board for a period of four years.

### *The Administrative Officer*

The Act provides for two different types of administrative officer. Under Section 21, every school board must have an administrative officer as the executive officer of the school board, who will be appointed by the State Government and whose pay and allowances will be drawn from the State revenues. This

officer is a servant of the State Government as per Section 21(2). The second type of administrative officer is envisaged under Section 22 wherein it is laid down that the Government may by notification in the Official Gazette delegate the power to appoint an administrative officer to an authorised municipality whose annual expenditure on primary education is not less than Rs. 1 lakh for three financial years immediately preceding the date of notification. In this case, the administrative officer will be the servant of the authorised municipality and draws his pay, allowances, etc., from its primary education fund. Even then, however, this delegation of appointing power is subject to several conditions as prescribed in subsections 2 and 3 of Section 22. The qualifications, pay and allowances and terms of employment of the officer must be in accordance with the regulations framed by the authorised municipality with the approval of the Government. The appointment of such an officer shall be made after inviting and considering the suggestions, if any, of the municipal school board, and with the approval of the State Government. He cannot, save with the previous sanction of the State Government, be removed from his office, reduced or suspended except by a resolution passed by at least two-thirds of the whole number of councillors of the authorised municipality.

In most cases, the administrative officer is appointed by the State Government, and he is a servant of the State, and very rarely would the provisions of Section 22 be used. His powers and duties are prescribed by the State Government. He is subject to direct control of the State Education Inspector and the Director of Education in those matters where authority is vested in him individually. For example, under Section 23 (1) he has power, subject to general instructions of the Director of Education, to promote, transfer and take disciplinary action including removal or dismissal, against the staff maintained under Section 20.

The staff maintained under Section 20 include assistant administrative officers, supervisors, clerks, primary school teachers and other menial staff. They are servants of the authorised municipality and receive their pay, allowances, etc., from the primary education fund. The rates of pay and allowances and the terms of employment in respect of the primary school teachers maintained by the authorised municipality are fixed by the State

Government, which has also the power to prescribe the duties to be performed by the staff. Under Rule 36(2) of the Primary Education Rules, 1949, every municipal school board is to prepare a schedule of permanent staff which is to be sanctioned by the authorised municipality with or without modification. The expenditure on staff, permanent or temporary, is not admitted for State grant unless it has been previously sanctioned and held admissible for grant by the State Government.

For the purposes of staff selection, the Act provides for a staff selection committee consisting of an officer designated by the Director (the Education Inspector of the district), Chairman of the School Board, and the Administrative Officer. This Committee selects candidates for appointment as assistant administrative officers, supervisors, attendance officers and teachers. It also selects teachers who are deputed for training. The selection of teachers and other candidates is made in accordance with the instructions issued by the State Government. As pointed out earlier, the administrative officer has power, subject to general instructions issued from time to time by the Director, to promote, transfer and take all disciplinary action, including removal or dismissal, against the staff. Under Section 24 (2) there is a provision for an appellate tribunal consisting of the chairman of the school board and an officer designated by the Director, to hear appeals from persons aggrieved by an order of dismissal, removal, reduction in rank or any other order involving disciplinary action. In the event of a difference of opinion between the members of the tribunal, the case has to be referred to the State Director of Education whose decision shall be final.

### *State Level Organisation*

At the State level, the Department of Education and Social Welfare is concerned with the administration of education and social welfare activities throughout the State. The Social Welfare Wing of the former Labour and Social Welfare Department has been added to the Education Department with effect from May, 1960. The Minister for Education is in charge of the educational activities of the Department while the Minister for Social Welfare looks after the social welfare activities. On the official side, the Department is headed by a permanent Secretary. There are

five heads of departments at the non-secretariat level. One of these heads of departments is the Director of Education who looks after all types of education other than technical education, art education and medical and agricultural education. At the Secretariat level, the Department of Education and Social Welfare examines the proposals made by the heads of departments so as to bring them into line with the Government policy, and evolves new policies to meet new situations. It is also responsible for scrutinising the budget estimates of the departments under it ; after scrutiny the budgets are forwarded to the Finance Department. The Department also sanctions grants and allotments wherever necessary, prepares schemes and programmes in respect of subjects allotted to it and takes steps for the enactment of necessary legislation in respect of the subjects under its charge. The Director of Education is in overall charge of the implementation of the policies laid down by the Secretariat Department. He is assisted by Joint and Deputy Directors of Education including four Deputy Directors serving at different regional offices.

The Directorate of Education maintains close contacts with the municipal school boards and exercises general control and supervision over their activities. Historically, inspection and administration of primary education underwent many changes in the old Bombay State. Initially, administration and inspection of all primary schools were in the hands of a single agency, namely, the Education Department. Later, when the municipalities were given powers over the administration of primary education, inspection work was undertaken by the officers of the Government. Thus, a separation of these two powers took place only in the urban areas. In the rural areas the administrative and inspectorial functions were combined and entrusted to a single agency, namely, the district school board. Prior to 1923, almost all the powers over primary education vested in the Government, while under the Primary Education Act of 1923, almost all the powers came to be vested in the school boards. The Bombay Primary Education Act, 1938 worked out a compromise under which the control of primary education was divided between the Government and the local bodies by separating the inspection of primary schools from their administration. Administration was left with the school boards with the important proviso that the administrative officer should be a Government

servant with independent powers in the matter of controlling primary teachers. The other function of inspection was taken over by the State Government for which the posts of deputy educational inspectors were revived. An important reason for vesting wide powers of control including the inspecting power in the State Government is that the largest part of the expenditure on primary education is borne by the State Government.

In practice, however, the system of dual control by the administrative officer and the deputy educational inspector, which was introduced by the Bombay Primary Education (Amendment) Act, 1938 did not work satisfactorily. There were frequent conflicts of jurisdiction between the two officers, and there was hardly any coordination. Later, when the present Act of 1947 was being passed, a demand was made that the dual control should be abolished and the functions of administration and inspection should both be entrusted to the local bodies. But this demand was not given much importance and the system of separation of administration and inspection has been retained in the new Act.

### *State Control*

Under the present Act, the State Government has considerable control over the school boards. A member of the school board may be removed by the State Government if he is found guilty of misconduct or is incapable of performing his duties. Officers including inspecting officers for the purposes of superintendence and inspection are appointed by the State. The inspecting officer has the right of being present at any meeting of the school board, and with the consent of the chairman, he can even take part in the discussions. The Director of Education or any other officer authorised by the State Government may enter on or inspect any immovable property connected with primary education of a school board or authorised municipality or any educational institution under its control and management. The Director or any authorised officer may call for any extract from the proceedings of any authorised municipality or school board, or inspect any book or document relating to primary education. The Director has the power to call for any return, statement, account or report, and require an authorised municipality or school board to take into consideration any objection which appears to him to exist in connection with any matter relating

to primary education. The Director has the power of suspending the execution of orders of school board if in his opinion these are contrary to law or in excess of the powers conferred by any Act, rules or regulations. If an authorised municipality makes default in the preparation of a scheme, or after a scheme has been sanctioned it omits to make adequate provision for compulsory primary education and fails to operate such scheme, the State Government may after due enquiry appoint a person to prepare the scheme or to operate it; the expenses thereof will, in that case, be paid by the authorised municipality. When the State Government is informed that the school board has made a default in performing its duty under the Act, it may direct the school board to perform the duty within a fixed period. If such a duty is still not performed within fixed period the State Government may appoint some person to perform it at the expense of the school board. The Government may, from time to time, make enquiries in regard to any authorised municipality or school board on matters connected with primary education with respect to which the sanction, control, consent or order of the State Government is required under the Act. In case of incompetence of the school board in the performance of the statutory duties, or its indulgence in illegal action, the State Government may dissolve the board or supersede it for a specified period. All these provisions regarding strict control of the State Education Department over the activities of the municipal school boards are reminiscent of similar supervisory powers of the State Government over the general administration of the municipal authorities under the provisions of the Maharashtra Municipalities Act.

Under the Primary Education Act, every authorised municipality is obliged to maintain a separate primary education fund which stands in the name of the municipal school board and is administered and used in the manner prescribed by the Government. The State grant-in-aid is to the extent of one-half of the total approved expenditure. In the event of misuse or misapplication of the primary education fund, the State Government may, however, reduce the grants payable to the authorised municipality. It may not, therefore, be an exaggeration to say that in Maharashtra the administration of primary



education is primarily in the hands of the State Government and only marginally in the hands of the municipalities.

### *Case Study in a Municipality*

To study the actual working relations between the State Government and the municipalities, an authorized Municipality was selected. It is situated close to the boundary of the Greater Bombay Municipal Corporation. According to the 1961 census, the municipal population was slightly more than one lakh. The Municipal Council spent about 52.44 lakhs during 1965-66. The expenditure of the Municipal School Board that year stood at slightly more than five lakhs. The Municipality was constituted as an authorized local authority in April 1964. The School Board consisted of 12 members, of which 10 were Councillors and 2 nominated by the State Government. The Chairman of the Municipal School Board was also a Councillor. The Administrative Officer of the School Board was, as usual, a State Government servant, who was looking after the day-to-day administration of the Board. During 1965-66, the School Board was employing more than 200 primary school teachers, both male and female. The pay scales and service conditions of the teachers are in accordance with the provisions of the Bombay Primary Education Act and the rules framed thereunder. It was pointed out during the field survey that the Municipal School Board found it difficult to retain the services of teachers of better calibre, because of the nearness of the town to Greater Bombay. Since the pay scales in Greater Bombay were better than those offered by the Municipal School Board, there was a natural tendency on the part of more qualified teachers to migrate to the Greater Bombay area. To tide over this difficulty the Municipal School Board accepted a proposal to revise the pay scales and the proposal was forwarded to the Municipal Council. After the acceptance of the proposal by the Municipal Council, the School Board went ahead with the implementation of the new scales of pay. The Board also approached the State Directorate of Education for according approval to the new scales. Then followed protracted negotiations between the School Board and the State Government over the financial implications of the pay revision. The State Government wrote to the School Board if the Municipal Council was agreeable to bear the additional

expenditure on account of the adoption of the new pay scales. The School Board in its turn forwarded the communication from the State Government to the Municipal Council. The President of the Municipal Council pointed out that the Council had already passed the resolution agreeing to bear the additional expenditure. After verifying this, the School Board wrote back to the Director of Education clarifying the stand of the Municipal Council. The Director of Education replied that since the question of revising the pay scales of primary school teachers was under the consideration of the State Government, the proposed pay revision by the Municipal School Board might be deferred. But the School Board, obviously encouraged by the Municipal Council, stuck to its decision and wrote to the Director of Education that they would not agree to defer the introduction of the new pay scales. Then the Director of Education addressed the School Board asking for some clarifications regarding the pay scales of untrained teachers and senior and junior trained teachers. Scenting that the Director of Education was trying to draw a red herring, the School Board replied that the question had been discussed with the President of the Municipal Council and the Council was determined to go ahead with the implementation of the new scales of pay; the additional cost would be borne by the Municipal Council, if necessary. It was now the turn of the Director of Education to write to the School Board in order to know the amount of additional expenditure involved in the new scheme and the proportion of expenditure which the State Government would have to bear. The School Board furnished the necessary information stating the share of the Municipal Council and the State Government in the new scheme.

The process of negotiation started during the middle of 1965 and no understanding could be reached even at the fag end of 1966. The Municipal Council was obviously very much anxious to implement the scheme with necessary assistance from the State Government, but they felt strongly about the delay in taking decisions by the State Government. It was even expressed that the administration of primary education should be squarely left with the Municipal Council, and the interposition of the Municipal School Board went against the autonomy of

the Council. The Councillors maintained that the whole arrangement of the Municipal School Board along with its Administrative Officer and the attendant State control and supervision was intended to perpetuate State departmental control over a specific functional administration. Since the Municipal Council concerned was being run by an important opposition party, the more vocal members of the Council even went to the extent of saying that the delay by the State Government was motivated and it was intended to prevent the Municipal Council from introducing progressive and popular measures. The Council was, therefore, in favour of the integration of educational administration with the municipal administration as a whole, and even favoured the abolition of the separate School Board.

Apart from its political overtone, the episode brings out a very important issue. State policy has naturally a tendency to clamp down uniformity and identity. Local peculiarities might, however, naturally demand variations in methods to suit local situations. In this case study, the need for the revision of pay scales arose primarily out of the difficulties that the Municipal School Board was facing in retaining more qualified teachers under their employ. Because of the nearness of the town to the Greater Bombay area, there was a ready temptation on the part of the teachers to migrate to Greater Bombay and avail of the higher scales of pay there. In such a situation, the uniform, State-wide scales of pay for the primary school teachers stood against the School Board's attempt to retain the more qualified teachers. A more flexible State policy toward the teachers' scales of pay, keeping in view the peculiarities of local situations, would perhaps, have forestalled the confrontation between the Municipal Council and the State Government.

What the Councillors had said about the Municipal School Board and the whole arrangement regarding educational administration under the Bombay Primary Education Act, need not be lightly brushed aside. This is a typical case where State departmental anxiety to run a functional administration efficiently tends to contradict the general conception of municipal government and administration. Under the Maharashtra Municipalities

Act, 1965, the Municipal Councils have more autonomy than the Municipal School Boards which are administered under the provisions of another Act. It is rather strange that the conception of a whole system—municipal government in its entirety—runs counter to the conception of a specific functional administration, namely, the administration of primary education.

## 5 ROADS IN TAMIL NADU

Under Section 163(1) of the Madras District Municipalities Act, 1920 it is optional for the municipalities in Madras to construct new roads, bridges and subways and widen or improve roads. But under Section 162 (1) it is obligatory on the part of the municipal councils to maintain and repair roads and bridges. It appears that the Municipal Act envisages the municipalities in Tamil Nadu as secondary maintenance agencies rather than primary construction agencies. In practice, however, the municipalities do undertake road building activities but their powers in this respect are subject to State Governments' technical supervision and control.

In Tamil Nadu the municipal engineers are Government servants. Under Section 76(a) of the Madras District Municipalities Act, 1920, the State Government took over the power to appoint municipal engineers. There are three grades of municipal engineers. The engineers in grades I and II are gazetted officers and the engineers in grade III are non-gazetted officers. The pay and dearness allowances of these engineers are drawn in the first instance from the State funds. Fifty per cent of the average pay and dearness allowance of these engineers and the entire amount of contributions towards their leave salary and pension or provident fund are recovered monthly from the municipal funds. The municipal council need not make the contributions for the period during which the post of municipal engineer is lying vacant. The travelling and conveyance allowances of these engineers are also met entirely from the municipal funds. Apart from municipal engineers, lower categories of engineering staff such as supervisors, overseers, etc., are appointed by the municipal councils, but the State Government has laid down qualifications for them. It will be pointed out below that even in the matter of appointment of subordinate engineering staff, the higher technical authorities belonging to the State field organisation exercise considerable influence.

*State Level Organisation*

At the State level, the Department of Public Health Engineering and Municipal Works was specially constituted in 1962 to help the municipalities in their construction works. This Department is a wing of the Public Works Department, but it has separate staff for investigation, design and execution of all works. It may be pointed out that Tamil Nadu instituted a Municipal Engineering Service, the staff belonging to which were posted to different municipalities. In 1962 when the new Department of Public Health Engineering and Municipal Works was created by amalgamating the Sanitary and Public Health Engineering branches of the Public Works Department, the Municipal Engineering Service was also merged in the newly constituted branch. This was done to make the Municipal Engineering Service more attractive and to increase the cadre strength of the first and second grades of the Municipal Engineering Service and also to create higher posts in the Service in order that more opportunities are opened up for the members of the cadre.

The Department of Public Health Engineering and Municipal Works has two circles—one located at Madras, another at Madurai. Each circle is in charge of a Superintending Engineer. The State Government has framed elaborate rules known as the Madras Municipal Works (other than water supply and drainage schemes) Rules which the municipalities are to follow in undertaking construction works. Under the Rules, plans and estimates for municipal works are ordinarily to be prepared by the municipal engineer. In the municipalities where there are no municipal engineers, such plans and estimates are prepared by the highest engineering subordinate employed by the municipality. Technical sanction of schemes and estimates relating to municipal works has got to be obtained from competent State authorities as laid down by the State Government in the Municipal Works Rules. For instance, a large town which has a first grade municipal engineer can undertake all repair works of any amount. But when it comes to undertaking original works the municipal engineer can sanction estimates upto Rs. 40,000 only. The construction

works beyond that amount up to Rs. 2 lakhs are to be technically sanctioned by the Superintending Engineer. Works estimates exceeding Rs. 2 lakhs but not exceeding Rs. 5 lakhs are to be sanctioned by the Chief Engineer and those beyond Rs. 5 lakhs are sanctioned by the State Department of Rural Development and Local Administration. The competent sanctioning authorities for the works of other municipalities having second grade and third grade municipal engineers or those without any municipal engineer, have been specified in the Municipal Works Rules. Generally, the technical sanction of municipal plans and estimates costing heavy amounts is accorded by the higher competent authorities such as the Superintending Engineer and the Chief Engineer or the State Department itself. The municipal engineer remains in direct charge of the work taken up for execution by the municipality. There is also a provision for inspection and post check of municipal works by the higher technical authorities. In the case of a municipality employing a grade I municipal engineer, works costing more than Rs. 40,000 only are post-checked by the higher technical authority, namely, the Superintending Engineer. Municipalities are to pay 2 per cent of the project cost as centage charges to the State Government for the technical scrutiny of their plans and schemes.

The State Government offers some grants to the municipalities for their road works. The system in Tamil Nadu is that the State Government calls for lists of new works to be undertaken by the municipalities on priority basis. Of these works not more than two are sanctioned every year for each municipality for the purposes of grants. The State Government gives 50 per cent of the expenditure as grant and the remaining 50 per cent as loan to be borne by the municipal councils themselves. The grants are disbursed<sup>1</sup> on the post-execution system, *i.e.*, on the basis of the value of work done. In the case of a municipality, grants are disbursed on the production of a certificate signed by the Executive Authority of the municipal council to the following effect : (i) that the work in respect of which grant is claimed has been carried out substantially in accordance with the plan and

<sup>1</sup>The disbursement of grants for municipal works is governed by the Government Order No. 1794 dated 10th June, 1942.

estimate sanctioned by the competent authority, (ii) that major deviations from the sanctioned estimate have been either approved by or reported to the authority competent to sanction them and (iii) that where deviations are likely to cause increase in the total amount of the estimate by more than 10 per cent, necessary action has been taken to intimate the Executive Authority of the municipal council to obtain supplemental grant from the local body or the Government or both as the case may be.

### *Case Study in a Municipality*

The Municipality taken up for case study is one of the largest urban local bodies in Tamil Nadu. It has a wide network of good metalled roads, and the town is connected with outlying and fairly distant places through long distance bus routes. It was pointed out during our field trip that the Municipal Engineer and the Engineering Department are competent to handle all the schemes of the Municipality and even financially the Municipality does not have to depend on the State Government for undertaking road works. The control of the Superintending Engineer, it was felt, was more suited to the smaller local authorities with little or no engineering know-how than to the larger municipal authorities with grade I engineers and fairly well-equipped engineering departments. Although the Municipal Engineer belongs to the State cadre, he naturally longs for operational freedom in his municipal department. But, the Municipal Works Rules leave little choice for him. Original construction works costing more than Rs. 40,000 are invariably referred to higher competent authorities for scrutiny and approval which usually involve a long time-consuming process. In these days of rising construction costs, most major schemes cost more than Rs. 40,000 and there is a genuine need for substantially enhancing the financial limit of construction works that can be undertaken by the municipal engineer himself without reference to the higher State authorities. So long as the engineer functions under the glare of council supervision, there will be a check on the abuse of power. After all, it is municipal money and not State fund which is being spent; but the degree of State supervision and control over municipal works is such that the Municipality has almost been reduced to a subsidiary State agency.



For the appointment of municipal engineering subordinates, there is an Appointments Committee consisting of the Commissioner, the Chairman of the Municipality and a Councillor. After preliminary selection of the engineering candidates the Municipality is to send the list to the Superintending Engineer for his *opinion*. Instances are not rare when the Superintending Engineer and the Municipality would be at loggerheads on the choice of candidates for appointment to the subordinate posts in the Engineering Department of the Municipality. In the garb of passing *opinion* on the suitability of the candidates, the Superintending Engineer may well indicate his own choice which the Municipality has willy nilly to accept. During field trip, our attention was drawn to a similar case where the Municipality and the Superintending Engineer were differing over the appointment of an engineering subordinate and the appointment, in consequence, was held up.

The above account of the interaction process between the State Government and the municipal authorities in Tamil Nadu reveals an unmistakable State attitude of help and guidance to the latter. The State field organisation for technical services has been structured to assist the municipalities and supervise their work programmes. Insofar as this network of State technical organisation extends its helping hand to the municipalities, it has no doubt a salutary effect on the quality and quantity of municipal services.

At the same time, however, State supervision and control over municipal roadworks has gone to the extent of reducing the municipal engineering department to the status of almost an integral part of State technical organisation. The municipal engineer belongs to an integrated service under the complete control of the State Government. Even in the matter of appointment of the subordinate engineering staff, municipal discretion is often substituted by the will of the State technical officers. The municipal engineer's power to undertake new constructions is exercisable within a specified financial limit beyond which the sanctioning power passes out of his hand to the superior State technical officers. Peculiarly enough, even though municipal funds are being spent and the municipal

engineer belongs to the integrated cadre, the municipality has still been subjected to an unconscionable degree of State control and supervision. Ironically, when the State Government takes centage charges from the municipality for the scrutiny of its works plans and estimates, it is done on the assumption of municipal autonomy, which is in reality severely curbed through the appointment of the engineer and the exercise of operational control as per Municipal Works Rules. This obviously leads to the practice of an illogical double standard.

Municipal government in Tamil Nadu has grown up rather differently from its counterpart in other States. Through the unified cadre of municipal chief executives (commissioners) and the integrated cadres of health officers and engineers, the State Government has virtually internalised its control over the municipal machinery. In a very vital sense, the municipal administration in Tamil Nadu is an integral part of State administration, which has lent a distinct character to municipal government in that State, and the above account of the administration of municipal road works amply testifies to it.

## 6 MEDICAL AND HEALTH SERVICES IN WEST BENGAL

The municipalities in West Bengal are empowered to undertake local medical and health services. They are also responsible for local sanitation, inoculation and vaccination, registration of births and deaths and prevention of food adulteration. Since the publication of the Bhore Committee Report (1946) and the Environmental Hygiene Committee Report (1949), the trend in West Bengal has been to strengthen the State organisation of medical and health services and even to take over local municipal responsibilities in these fields. The Health Survey and Planning Committee (1961) also spoke in favour of integrated medical and health services conceiving State and local health organisations as technically almost one. Since the municipal authorities have always been in financial difficulties, the entrance of the State government in the field of local health and medical services came to them as a welcome relief.

### *State Level Organisation*

At the State level, the Department of Health is the final controlling authority in respect of all health activities. The Department is headed by a Minister and a permanent Secretary to assist him. Under the secretariat there is a Directorate of Health Services with the Director as its head. The Director of Health Services is responsible for the implementation of departmental policies with regard to public health and sanitation, regulation of public health and sanitary services, maintenance of vital statistics, regulation of medical profession and standards of medical administration including provision for medical education and maintenance of hospitals, dispensaries and health centres. The Department is also responsible for drugs control and prevention of adulteration of foodstuffs, issuing of notification of epidemic diseases and ensuring of public health measures in

markets and fairs. Maternity clinics and mental hospitals are licensed under the Clinical Establishment Act, 1950 and the Indian Lunacy Act, 1912. Hospitals are recognized by the State Government only when their arrangements are found to be satisfactory. The opening of dispensaries need to be approved by the Divisional Commissioner in respect of sites, and the dispensaries have to obtain recognition by the Director of Medical Services for the purposes of grants. The Department of Health has its officers posted in districts, sub-divisions and thana health centres, who work under the general supervision of the Director of Health Services.

### *Municipal Health Administration*

Under Section 394 of the Bengal Municipal Act, 1932, it is optional for the municipalities to provide for hospitals, dispensaries, midwives and health visitors. As stated earlier, the municipal bodies being in most cases unable to provide for adequate health and medical services due to paucity of funds, in West Bengal the State Government has stepped in to undertake direct medical and health services along side the municipal authorities. In consequence the municipalities have almost withdrawn their activities from this field. The general picture in West Bengal is that municipal activities in the field of medical and health services are, generally speaking, confined to local sanitary work, prevention of food adulteration, vaccination and registration of births and deaths, maintenance of one or two maternity and child welfare centres and a few municipal dispensaries. Elaborate rules and regulations have been framed by the State Government to enforce health measures, regulate municipal activities in this sphere and set standards for medical and health services.

As far back as 1912 the Government of India was seized with the problem of improving and strengthening sanitary services in India. At that time a scheme was approved for the appointment of health officers and sanitary inspectors in municipalities. Accordingly the then Government of Bengal laid down a policy for the improvement of sanitary services in the municipalities and prescribed the terms of appointment of health officers and sanitary inspectors. It

was decided that municipalities with a population of about 50,000 or over should employ first-class health officers with a registrable medical qualification and municipalities with a population of about 16,000 and a yearly income of about Rs. 40,000 should appoint a second-class health officer who need not necessarily have medical qualification but must have good general education, supplemented by public health training. Municipalities with a population of about 10,000 should employ one sanitary inspector and those with a population of 30,000 should have two sanitary inspectors, and others with a population of 50,000 should appoint at least three such inspectors. These Government orders relating to the appointment of health officers and sanitary inspectors were given a statutory basis in the old Bengal Municipal Act, 1884. The State Government, under the provisions of this Act, could require a municipality to appoint a health officer or one or two sanitary inspectors subject to the condition that the income of the municipality should not be below Rs. 10,000 a year. Also, the Government had power to fix the salaries and allowances to be paid to the health officers and sanitary inspectors out of the municipal funds. Similar powers vest in the State Government under Section 67 of the Bengal Municipal Act, 1932 subject, however, to the following changes :

- (i) The appointment of health officer by a municipality can be required by Government only when the income of the municipality is at least Rs. 100,000.
- (ii) Fixing of the salary of the health officers and the sanitary inspectors is now left to the municipalities, subject to the approval of Government.
- (iii) The health officers and sanitary inspectors cannot be removed from office except by votes of not less than two-third of the whole number of commissioners of the municipality in a special meeting.<sup>1</sup>

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<sup>1</sup>Section 66 provides for the appointment of officers by the Commissioners at a meeting; in such cases, appointment carrying a monthly salary of more than Rs. 200 or a salary rising through increments to more than Rs. 200 can be created with the sanction of the State; and every nomination to, and dismissal from such appointment is subject to confirmation by the State Government.

In 1912 while sanctioning the scheme for the reorganisation of the sanitary services in India, the Government of India offered to grant half the cost of the municipal health officers. On the basis of this scheme, the Government of Bengal started paying half the salaries of the municipal health officers provided these officers were fully qualified. It is this old policy which is still in force in West Bengal. Unlike the case of health officers no promise of contribution towards the pay of sanitary officers in general has ever been made. In 1912 while the Government of Bengal agreed to give effect to the Government of India scheme, it was stated that the Government would be prepared to give some assistance towards the cost of sanitary officers in cases where the Commissioner of a Division reported that the municipalities were unable to bear the increased expenditure. On the basis of this order and on the analogy of payment of half the salary of health officers, the practice grew up of paying grants equivalent to half the salaries of sanitary inspectors. From time to time, however, it was pointed out that the appointment of sanitary inspectors being a statutory liability, their cost should be met from municipal funds. This question of payment of contribution towards the pay of municipal sanitary inspector was reviewed in 1934 when the Divisional Commissioners were told that in making contributions towards the pay of the sanitary inspectors, Government would take into consideration the percentage of total collection to total demand. Later, in 1942 the Government policy was definitely laid down that applications for contribution would be considered only in respect of those municipalities whose total collection amounted to at least 75 per cent of the total demand. It was pointed out that municipalities would be offered Government contribution if in spite of this

(Footnote Contd.)

*Section 67 provides for the appointment of Health Officer and Sanitary Inspectors by the State Government, if the State so desires. No such officers can be removed from office by the Commissioners except by the votes of not less than  $\frac{2}{3}$ rd of the total number of Commissioners holding office for the time being at a special meeting called for the purpose.*

*Under Section 67 (4) : When the State Government requires a municipality to appoint an officer under Sec. 67, but the Municipality makes default in making the appointment within a specified time, the State may make the appointment and fix the terms and conditions of service.*

performance, they would be found unable to meet the cost of their sanitary inspectors. After this, State contribution to the municipalities towards the pay of sanitary inspectors had virtually come to an end.

Under Section 76 of the Bengal Municipal Act, 1932 the State Government may make rules prescribing qualifications of candidates for employment as municipal health officers and sanitary inspectors. In exercise of this power the State Government has framed necessary rules laying down the qualifications of these officers. Under Section 75 of the Bengal Municipal Act, the municipal commissioners at a meeting may, subject to State Government's sanction, make rules regarding duties, leave and other conditions of service of the municipal officers and servants. Accordingly, the State Government has approved a set of model rules prescribing the duties of municipal health officers and sanitary inspectors for adoption by the commissioners of the municipalities.

Under the Rules, the municipal health officer and the sanitary inspectors have to be in touch with the authorities at the State level and with the State officials at the district level for various purposes. The health officer, for instance, has to communicate to the Chief Medical Officer of the district any information regarding any serious disease endangering the health of the people in the municipal area. He has also to inspect the sanitary condition of every school within the town particularly in respect of land, ventilation, water supply and latrine arrangements, and to report to the Director of Health Services. The sanitary condition of railway stations is also within his purview and he is to report the result of his inspection to the Director of Health Services. The health officer has to report to the Director of Health Services in case of plague, cholera, small-pox or any serious outbreak of epidemic disease in the town. He has to submit to the Director of Health Services a weekly report on epidemic diseases. Also, he has to forward duplicate copies of weekly returns to the District Magistrate and the Chief Medical Officer of the district. A monthly report is submitted by him to the Director of Public Health Services mentioning the health measures taken by him or those which should be adopted for the improvement or

protection of public health in the town. Likewise he has to compile an annual report on the sanitary condition and public health administration of the town, which is transmitted to the Director of Health Services and the District Magistrate. When the Health Officer or Sanitary Inspector is required to undertake medical inspection of school children, he has to compile an annual report of all sanitary inspections of educational institutions for submission to the Director of Health Services and the Director of Public Instruction. Chapter XIV of the Bengal Municipal Act deals with municipal responsibilities in connection with restraint of infection. Under Section 384 of the Act, the State Government is the competent authority for declaring specific diseases as dangerous by notification and under Section 392 the municipal commissioners have been authorised to make bye-laws for the control and prevention of any dangerous diseases. For the purposes of this Section, the State Government has approved a set of model bye-laws for adoption by the municipalities. For combating diseases such as cholera, small-pox and plague, action is generally taken under Section 2(1) of the Epidemic Diseases Act, 1897, which authorises the State Government to take appropriate measures to prevent the outbreak or spread of such diseases. Accordingly, regulations have been prescribed by the State Government for enforcement in the municipal areas. In the case of cholera, besides the prescription of regulations under the Epidemic Diseases Act, 1897, certain other preventive measures such as early notification, efficient disinfection and education propaganda are enjoined by the State Government. The Municipalities are also supplied vaccination lymphs by the State Government from its own laboratory.

For vaccination, the relevant law is the Bengal Vaccination Act, 1888. The Act refers to certain statutory appointments, namely, Public Vaccinator, Inspector and Superintendent. Under Section 393 of the Bengal Municipal Act, the health officer of a municipality exercises the powers and perform the duties of a superintendent of vaccination. In municipalities which employ a sanitary inspector but no health officer, the sanitary inspector acts as the superintendent of vaccination. Under Section 25 of the Bengal Vaccination Act, the District Magistrate exercises the



powers of appointment of Public Vaccinator in a municipal area. The position is that both the District Magistrate and the municipality concerned have power to appoint and dismiss vaccinators. So far as appointment is concerned, both of them should concur in the appointment of a vaccinator. The municipality cannot employ any one as a public vaccinator unless the District Magistrate authorises him to act as such; while it is useless for a Magistrate to appoint a man if the municipality does not employ him. As regards dismissal the position is different since both can exercise their powers independently. The District Magistrate can cancel the appointment of a vaccinator and the latter will be debarred thereby from exercising his functions under the Vaccination Act. A municipality can also dismiss a vaccinator and he will thereby cease to be a municipal employee working in the municipality. No doubt, the situation in this respect is rather anomalous. Under Section 33 of the Bengal Vaccination Act, the State Government has prescribed vaccination rules for the municipal areas.

Under Section 1 of the Bengal Births and Deaths Registration Act, 1873, the State Government may at any time by notification published in the Official Gazette direct that all births and deaths occurring within the limits of any area shall be registered and for that purpose may define limits of such area. In exercise of this power, notifications were issued from time to time specifying various municipal areas and directing that within the limits of such areas all births and deaths should be registered. Under Section 444 of the Bengal Municipal Act, the commissioners, when required to do so by the State, shall provide for the registration of births and deaths within the municipal limits, and under Section 445 (2), when required to do so by the State, the commissioners shall appoint a person to be the Registrar of Births and Deaths. The State Government is empowered under Section 448, to make rules for securing better registration of births and deaths. In exercise of this power the State Government has issued Rules for the municipalities. Under the Rules, a weekly return of births and deaths is forwarded by the Municipality to the Director of Health Services and a monthly return is sent to the Chief Medical

Officer of the District. Regarding prevention of food adulteration, the State Government has powers under the provisions of the Bengal Food Adulteration Act, 1919. The Government may limit the operations of different sections of the Act to specific articles of food. Section 2(3) defines a 'local area' for the purposes of this Act to be any area declared as such by the State Government. Accordingly, the State Government has declared each municipal area as a 'local area'. The State Government appoints Public Analysts for specific areas. Exhaustive rules have been framed by the Government under the Food Adulteration Act for use by the municipalities. Municipal powers and responsibilities in respect of food and drugs control have been laid down in chapter XIX of the Bengal Municipal Act.

### *Case Study in a Municipality*

The Municipality, under study, is one of the bigger municipalities in West Bengal. According to the 1961 Census, it had a population of slightly more than one lakh. From the standpoint of economic and industrial development, the Municipality is very strategically located in as much as it is the hub of a vast coal mining area and serves an important railway junction and colony. The municipal area is very close to the coal mines and the mineral deposits in the West Bengal-Bihar border. It has all the public health problems peculiar to a mining and industrial town. Despite its size and economic importance, the civic services are grossly inadequate and do not seem to be properly managed. In fact, even from a cursory look at the town one can see the bad condition of roads, open drains, dirt and dust, and generally unsatisfactory state of sanitation. The Municipality was under supersession for a number of years, and only in 1967 the municipal general election was held as a result of which the new Board of Commissioners assumed charge. Because of no statutory obligation to appoint an Executive Officer, the municipal administration is run by the elected president and the councillors with the aid of subordinate appointed staff. The municipal area is unsewered and the dry conservancy type of night-soil disposal is widely prevalent. Open drains carrying spent water and other filthy substances constitute a constant public health hazard. In such a situation

the role of the Municipality in keeping the town clean and removing public health hazards needs hardly any emphasis.

During 1967-68, the Municipality's estimated total budget expenditure came to about Rs. 27 lakhs. On the salaries of the health and sanitary staff and on drainage, conservancy road cleaning and other sanitary requirements, the Municipality budgeted for an estimated expenditure of about Rs. 6.5 lakhs. In other words, the Municipality was planning to spend more than a fifth of its total expenditure on activities relating to health and sanitation. In 1967, it had, under its employ, an army of about 350 workers engaged in the cleaning of drains, collection and disposal of night soil and town refuse and in allied sanitary functions. Besides, there were five sanitary inspectors, three sanitary assistants, two health assistants, four vaccinators and two midwives. A fleet of tractors and buffalo carts was in use for the collection and disposal of refuse and night soil.

From what is described above, it can be guessed that the workload in health and sanitation work and the manpower provided for this, could not be said to be negligible. Obviously, the way the available manpower would be utilised would determine the health and sanitary condition of the town. Unfortunately, however, the departmental head—the Health Officer—who was to look after the health and sanitary measures, was missing in the municipal administration. The Municipality had been without a Health Officer since 1965. For quite a number of years, the Municipality remained superseded and the Administrator was running the municipal machinery. The municipal general election was held in 1967 as a result of which the new Board of Commissioners (Councillors) had taken charge that year. The State Government was bearing 50 per cent of the basic pay of the Health Officer and the entire cost of one midwife. But the Health Officer's post was lying vacant in spite of the fact that the Administrator tried to fill it up. The newly elected Board took up this issue immediately after the assumption of charge.

The pay scale for the post of Health Officer was Rs. 260-420, which was too low to attract suitable, qualified candidates.

Hence, during the Administrator's regime, a proposal was accepted that the pay scale should be upgraded to Rs. 380-750. The post was then advertised and one candidate was ready to join on a higher initial pay of Rs. 520. Through the Additional District Magistrate, the Municipality (Administrator) approached the State Government for according approval to the new scale of pay. The State Government wanted to know the financial implications of the revised pay scale and the full particulars about the candidate who was willing to join the post. The Administrator wrote back saying that the Municipality was in a position to incur the additional expenditure. After the exit of the Administrator and the take-over by the elected Board of Commissioners in 1967, the proposal to appoint the Health Officer was taken up with the State Government. The Municipality again advertised the post and approached the State Government for giving approval to the new pay scale. A suitable qualified candidate was also found out and a concrete proposal for appointment was forwarded to the State Government. The proposal was, however, sent back as the Municipality did not submit it through the District Magistrate. After the Municipality observed the proper procedure, the District Magistrate wanted to have the full particulars about the proposed candidate, his pay, etc. The financial implications of the proposal and the particulars about the candidate were accordingly intimated to the Additional District Magistrate and it was pointed out on behalf of the Municipality that it was in a position to incur the additional expenditure involved in the revised scale of pay. Uptill January 1968, the correspondence was going on between the Municipality and the State Government *via* the District Magistrate, and meanwhile, for nearly three years, the Municipality had no Health Officer to run its health and sanitary services.

The inference from this case study is quite obvious. Health and sanitary measures for an important municipal town situated in a strategic industrial and mining area are as much the concern of the involved Municipality as of the State Government. The elaborate legal provisions, mentioned earlier, empower the State Government to keep in touch with the local health and sanitary measures in normal circumstances and in emergencies. The implication is that the State should ensure the observance of

a particular standard in respect of these vital civic services, and see that the municipal authorities manage these services properly. But, this case study clearly points out a contradiction between what the formal laws and rules enjoin and the actual attitude of the State Government. The formal position is that of an activist and interventionist State, whereas in practice the State seems to have been following a *laissez-faire* policy. Considering the strategic location of the Municipality which calls for the proper management of its health and medical services, one would have expected a prompt action by the State Government on the information and recommendation of the district authorities. In fact, Section 67 of the Bengal Municipal Act could have been applied to this case to ensure early appointment of the Municipal Health Officer. Unfortunately, however, things were allowed to drift away and there was hardly any importance attached to the appointment. When the Municipality approached the State Government urging for early action, the State turned out to be a stickler for procedures. This episode sheds new light on the attitude of the involved State Department, and the procedures for State-Municipal negotiations. It smacks of an old-worldly *laissez-faire* posture hardly in keeping with the needs of an impatient age demanding quick development and prompt remedies.

## 7 SUMMING UP

The discussions in the preceding chapters have revolved round the theme of State-Municipal functional relations. It will be interesting to note, at this stage, the general framework of State-Municipal relations in the four States under study, which may later be set alongside the web of functional relations by way of comparison. We can start with an operational definition of 'municipal autonomy' in order that the municipal governments in the four States could be categorised on the basis of their degree of autonomy. Viewed against the authority of the State Government, municipal autonomy can be defined as the freedom of the elected municipal council to discharge its statutory obligations without interference by the State government or any of its agents. Advice, guidance and assistance cannot be called interference, but substitution of municipal discretion by State directives and operational encroachment of the State in the municipal field certainly constitute interference. Municipal governments in the four States can now be classified into two distinct groups. The first group, characterised by a closer integration with the State Government, would embrace municipal government in Tamil Nadu. In the remaining three States of Gujarat, Maharashtra and West Bengal, municipal governments can be clubbed together on the basis of their greater freedom from State control.

Municipal government in Tamil Nadu is modelled largely on the pattern of Corporation government which had its origin in the Presidency Towns of Bombay, Calcutta and Madras. The executive authority, under the Madras District Municipalities Act, 1920, is appointed by the State Government. He is responsible for running the executive administration of a municipality and has been given certain direct statutory powers.<sup>1</sup>

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<sup>1</sup>Illustrative provisions are Sections 201, 226, 242, 261, etc.

There is a State-wide unified cadre for the municipal executive officers controlled by the State Government. The municipal health officers and engineers belong to integrated services and are freely transferable between the municipalities and the State Government departments. In their cases, also, the controlling authority is the State Government. Thus, the key municipal officers are controlled by the State as a result of which municipal government in Tamil Nadu is more integrated with State administration than the municipal governments in the three other States. The supervisory powers of the State include inspection and calling for records and returns, action in default, compelling a municipality to execute a particular work, suspension or cancellation of municipal resolutions, removal of municipal chairman or vice-chairman in certain cases, and finally supersession and dissolution of the municipal council. The rule-making powers vest in the State which also approves the bye-laws framed by the municipalities. So far as the financial controls are concerned, the municipal budget has to be submitted to the State Government for approval and the Government has power to modify the budget. Alteration in the budget is permissible only with the approval of the Government. Municipal accounts are audited by the auditors appointed by the Government. In case a municipality wants to abolish a particular tax or reduce the rate of an existing tax, the proposal has to be sent to the State Government, and an indebted municipality has to obtain previous State sanction for such actions. Over the years, the Tamil Nadu Government has evolved a few schemes of grants-in-aid to the municipalities for specific purposes such as improved surfacing of roads, construction of bridges, maternity and child welfare centres, education, health, Harijan welfare, and establishment grants. All these grants are, however, discretionary and not based on statutory foundation. A number of loan schemes have also been formulated by the State Government to help the municipalities in their capital development projects. The State Government is the main source of loanable funds, and loans from other non-government sources need the prior sanction of the State.

In the second group, the municipalities in Gujarat, Maharashtra and West Bengal enjoy considerable autonomy. Apart

from laying down the qualifications for key municipal posts, the State Governments in these States do not have much control over municipal personnel administration. Because of the prevalence of the separate personnel system, the municipal councils have substantial control over staff recruitment and discipline. The Maharashtra Government has powers to frame rules regulating the qualifications, pay, allowances and other service conditions and methods of recruitment of principal municipal officers such as the chief officer (executive officer), municipal engineer, etc. Creation of posts of municipal officers and servants in Maharashtra is subject to the sanction of the State Director of Municipal Administration, and no order of dismissal pertaining to any officer or servant holding any permanent post the minimum salary of which is Rs. 75 or more can be passed without the prior approval of the Collector. In Gujarat and West Bengal, the municipal councils have almost unfettered powers in personnel matters. The Gujarat Municipalities Act has, of course, empowered the State Director of Municipal Administration to prevent extravagance in municipal establishment expenditure under Section 260. The powers under this Section are very general and vague, and may even be challenged as uncanalised and excessive delegation.

The Bengal Municipal Act provides for the framing of rules by the State Government prescribing the qualifications of municipal officers and servants. Regarding determination of the scale of establishment, the municipal councils are free to decide about what officers and servants are necessary, and to fix their salaries and allowances. Unlike the Municipal Acts of Gujarat and Maharashtra, the Bengal Act does not make the appointment of the executive officer obligatory. The State Government may, however, require a municipality to appoint an executive officer and other officers such as engineer, health officer, etc. In that event, the State has power to approve the salary and allowances of these officers, and disciplinary actions against them need to be confirmed by the State Government. In Gujarat and Maharashtra, the municipal executive officers are to function under the general control and supervision of the presidents and this rules out the possibility of their exercising any independent statutory powers like their counterparts in Tamil Nadu.



As regards general State control and supervision, the situation in the three States is very much similar to that obtaining in Tamil Nadu. The State Governments have powers of inspection, calling for records and returns, suspension and annulment of resolutions, action in default and supersession and dissolution. Financial control is, however, somewhat lax, as the municipal budgets in the three States are not, in general, subject to State sanction or modification. In Maharashtra and West Bengal, the budgets of indebted municipal councils only are subject to such controls. The provisions regarding audit of municipal accounts are there in all the three States. Gujarat alone has introduced formula grants to the municipalities on a firm statutory basis. Discretionary grants for specific purposes are offered by the Maharashtra and West Bengal Governments. Additionally, the West Bengal Government gives subventions to the municipalities toward dearness allowance and minimum wages of their employees.

The conclusion that can be derived from these discussions is that the general framework of State-Municipal relations in Tamil Nadu is qualitatively different from that in Gujarat, Maharashtra and West Bengal. Municipal government in Tamil Nadu is more integrated with State administration than its counterparts in three other States. After this delineation of the general framework of relationship, it can be examined how far the functional interactions, described in earlier chapters, conform to or deviate from the former. To start with, the functional case study of Tamil Nadu may be taken up. The administration of municipal roadworks in that State is almost knitted together with State public works administration. The municipal engineer is drawn from the integrated cadre, and the Municipal Works Rules framed by the State clearly lay down the administrative procedure and subject the municipal works programmes to the technical and financial control of the State technical officers and the Government. Even when the municipal engineer belongs to the integrated cadre, his powers are limited and subjected to technical scrutiny by the State field engineers. Instead of offering technical consultancy free of cost, the State is extorting a heavy charge from the municipality which can hardly be called a helpful gesture.

State technical control is not matched by a well-thought out system of grants for capital projects. When the municipality can afford to spend from its own funds and has employed a qualified engineer from the integrated cadre, the control by the State technical wing has hardly any justification. As it always happens, the State policy of control and supervision has been clamped down on an uniform basis without regard for the size and capacity of the municipalities. It can thus be summed up that the nature of State-Municipal functional relationship in Tamil Nadu follows closely the general framework of inter-governmental relationship in that State. Both are basically integrative and unifying.

Of the three remaining States, Gujarat, much like West Bengal, is a respecter of municipal autonomy. The case study of Gujarat discloses a progressive State attitude toward help and assistance in municipal programmes. The municipal water supply programme was launched with State technical assistance and promise of financial help. No charge was levied for the technical consultancy provided by the State and the receipt of local donations was facilitated by promptly issuing necessary order. At one stage when the State technical clearance was delayed, the Director of Municipal Administration had taken up the cause of the Municipality with the Department's technical wing. Possibly, the integration of the public health wing with the house-keeping Department has led to a better understanding of the municipal problems by the former. The Gujarat story thus reveals a healthy and helpful cooperation between the municipality and the State Government. The State attitude is essentially promotional and stimulative. There is, of course, the hurdle of technical clearance which may be attributed to the weak technical organisation of the municipality. It will be in consonance with the promotional policy of the Gujarat State to gradually strengthen the technical wings of the municipalities so that the municipalities steadily become self-reliant in the matter of preparation of their technical schemes. The State would ultimately be responsible for offering financial assistance for the municipal schemes which might even be subjected to State technical inspection. All in all, the Gujarat episode exposes a kind of functional relationship between the two

governments which is in conformity with the general framework of State-Municipal relations in that State. Both are promotional in their content, rather than integrative as in Tamil Nadu.

Turning to the general framework envisaged in the Bengal Municipal Act, one can decipher a fundamentally liberal State attitude traceable to the philosophy of local self-government which was originally conceived by its architect, Sir Surendranath Banerjea. Apart from the conventional supervisory powers of the State, the State-Municipal relationship enshrined in the Act is informed by a general attitude of respect to municipal self-government, and the Act rarely contemplates any design to constrict local discretions in normal circumstances. In this respect, the overall spirit underlying the Municipal Acts of Gujarat and West Bengal is almost identical. The Maharashtra Act is also not far removed from them, although in some spheres such as municipal personnel administration and water supply administration this Act aims to put some limitation on municipal operational freedom. State-Municipal functional relations in West Bengal, as discussed in an earlier chapter through a case study of the medical and health services, present some interesting features. *Formally*, the tenor of functional relationship differs significantly from the spirit of the general framework of intergovernmental relation. As it has been described threadbare, the relevant provisions of the Bengal Municipal Act supplemented by a number of special Acts—Vaccination Act, Epidemic Diseases Act, Food Adulteration Act, Births and Deaths Registration Act, etc.—intend to build up a massive structure of health administration in the State under which the dividing line between State Administration and Municipal Administration is hard to draw. Elaborate rules and regulations have been framed under appropriate provisions of the municipal Act to regulate municipal action in the field of health and medical services. A detailed reporting system has been evolved to enable the State Government to keep abreast of the state of public health within the municipal jurisdictions. In the appointment of public vaccinators and health officers, notification of epidemic diseases, prevention of food adulteration, registration of births and deaths, Municipal administration and State administration have almost coalesced. All

this is, however, what is envisaged in the laws and rules, and it will be wrong to conclude that the functional relationships make the municipal government in West Bengal as integrative as its counterpart in Tamil Nadu. Beyond this facade of *formal* relationship between the two levels of government, there is very little *real* interaction. As the case study of West Bengal reveals, municipal health administration is in disarray. There is no hospital maintained by the Municipality; it merely pays some contributions to two public hospitals. A maternity centre is run on a skeleton basis and one of the two midwives is paid from the State fund. The post of the Health Officer who is to manage the municipal health and medical services has been lying vacant for more than three years. The State Government contributes to the extent of fifty per cent of the pay of the Health Officer, which device implies that the State attaches importance to this municipal post and wants to make sure that this officer is duly appointed. Had the State been really eager to see that the Health Officer is promptly appointed, the appointment should have been made during the regime of the Administrator when the municipal administration was taken over by the State Government. Even in normal circumstances when the health officer is in position, the reports and returns are rarely submitted regularly to the different prescribed authorities. In the absence of the health officer, one can imagine the fate of those formal procedures. Since there is no regular system of functional inspection by the State Government, the procedural formalities in general fall into desuetude. What do all these add up to? In West Bengal, State-Municipal functional relationship in the field of health and medical services is, like Janus, two-faced. The *formal nature* of functional relationship looks integrative and interventionist, its *real nature* is, however, very different—the State Government stands aloof almost in a *laissez-faire* posture. It is tempting to equate this non-interventionist posture with the general framework of State-Municipal relation in West Bengal. But, their basic difference is that whereas the general framework is informed by a healthy spirit of liberalism, the functional relationship in practice exudes an unhealthy negativism and isolationism. There is a qualitative difference between the spirit of the two kinds of relationship.

We have already observed that the general framework of State-Municipal relationship envisaged in the Maharashtra Municipalities Act, 1965 has a sufficiently liberal strain, and barring a few restrictive provisions, the Act as a whole allows the municipalities to govern their affairs without much of State interference. However, State-Municipal functional relations, as seen through the case study of primary education, present a very different picture. Special provisions have been made under a separate Act—the Bombay Primary Education Act, 1947—for the administration of primary education. As discussed earlier, this Act envisages an independent administrative machinery with the school board, a primary education fund, the administrative officer and a complex of control mechanisms in the hands of the State Government. Obviously, in designing this administrative structure the assumption has been that primary education is too important a subject to be entrusted to the full control of the municipal authority. The result has been the constitution of a parallel government to administer a specific function. An expert Committee<sup>2</sup> was set up by the Government of Bombay which discussed in details the different aspects of the administration of primary education in that State. Aside from some peripheral changes, the Committee did not recommend any major alterations in the overall scheme of administration. The concept of 'authorised municipality', the device of 'school board' and the State-appointed executive authority, the administrative officer—these were not questioned by the Committee. Rather, in its opinion, these are necessary in the interest of good administration of primary education. Later, the Education Commission set up by the Government of India also recommended in the same vein. To quote from the Commission Report, "In big towns with a population of 100,000 or more, it would be desirable to establish municipal school boards..."<sup>3</sup> In fact, the Education Commission favoured the introduction of

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<sup>2</sup>*Primary Education in the State of Bombay : A Report on Integration and Development*, Vol. I, Bombay, 1961.

<sup>3</sup>*Report of the Education Commission (1964-66)*, Ministry of Education, Government of India, New Delhi, p. 450. This recommendation shows clearly the danger of trying to introduce narrow functional reforms without taking into account the overall institutional context of the function.

the Maharashtra model of administration of primary education throughout India.

Evidently, the nature of State-Municipal relations in Maharashtra in the field of administration of primary education is such that the State Government has the upper hand in the bargain. In their anxiety to ensure efficient administration, the State Education Department has built up its own separate 'empire' through the constitution of the school board and the appointment of the administrative officer. Now, a pertinent question would be : why the administration of primary education alone has been designed separately like this ? If efficient administration be the criterion, why not create similar boards also for other municipal functions such as water supply, health and medical services and so on ? If a separate school board is supposed to be built on sound logic, the argument in favour of similar organisations for other functions is irrefutable. It is very often conveniently overlooked that a municipality is a multi-functional unit and the different municipal functions are closely interlinked. An autonomous administration for a separate function, like the setting up of a special purpose body, might break the linkages between the interdependent functions and disturb administrative homogeneity in a municipality.

The truth is that the idea of the school board has its origin in a sense of distrust in the ability of the elected municipal councillors to manage primary education in a way the State Department of Education would like it to be run. This sense of distrust is also widely shared by almost all the functional departments at the State level. The only difference is that the Education Department having pursued it successfully during the British regime, was able to push through the necessary legislation for controlling primary education; other functional departments have not been successful so far, at least in Maharashtra. What is missed by the protagonists of efficiency is that, if lack of faith in the capabilities of the elected councillors be the reason for creating separate administrative machineries for specific functions, the best way to achieve efficiency could be to abolish the municipal councils.

This logical contradiction in State policy is universally overlooked in India. In Maharashtra at any rate, the liberal framework of State-Municipal relations as envisaged in the main Municipal Act, has suffered a set-back in the field of administration of primary education. The administration of a particular function has been given more importance than the character of a whole institution.

This four-State survey thus reveals varying attitudes of the State functional departments toward municipal functional administration. Regarding State-Municipal functional relations, Tamil Nadu and Maharashtra exhibit the common features of an integrative administration, although the general frameworks of State-Municipal relationship in these two States are not the same. In West Bengal, the general framework is liberal; the formal nature of State-Municipal functional relationship is integrationist; and the actual nature of State attitude to municipal administration verges on a *laissez-faire* policy. Only in Gujarat the general framework of intergovernmental relationship and State-Municipal functional relations strike a unifying note. It will be interesting to observe how in one specific State the different State functional departments conduct their relationships with the municipalities.<sup>4</sup> Possibly, such a study would come out with a whole range of departmental attitudes from the interventionist to the *laissez-faire*.

Such divergent departmental attitudes have important policy implications for municipal government as a whole. The municipal functions such as water supply, public health and medical services, education, roads, etc., are closely inter-linked and their developments need to be coordinated. An overemphasis on the expansion of one particular service, say, education, may not produce the desired result, unless an allied service like health is also planned and developed concurrently. There is an urgent need, therefore, to treat municipal functional development as a whole with all the allied functions moving in concert. It should be one of the principal responsibilities of the house-keeping department at the State

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<sup>4</sup>In Britain, a similar study has been made. See J.A.G. Griffith, *Central Departments and Local Authorities*, George Allen and Unwin Ltd., London, 1969.



level—the Local Self-Government Department—to keep in constant touch with the plans and programmes of the State functional departments and knit them together in order to avoid distorted functional development at the municipal level. Where the Municipal Act is informed by a liberal spirit and seeks to promote municipal autonomy, it should be the duty of the Local Self-Government Department to maintain the spirit of the law. The discordant attitudes of the State functional departments would then have to be harmonised and an overenthusiastic, interventionist functional department would have to be bridled and put on the right track. Obviously, this is an extremely difficult task and may well give rise to inter-departmental conflicts. The 'local government' portfolio, if it has to be seriously taken, is a very important charge, and in the coming years, as more and more political parties gravitate toward the municipal bodies, this portfolio will become as important as the 'home affairs' portfolio at the federal level which includes Union-State relationship. It is necessary, therefore, to locate the 'local government' portfolio at a strategic point at the State level, may be, in the charge of the Chief Minister himself, who alone can secure interdepartmental coordination on the one hand and look after the highly political aspect of State-Municipal relationship on the other.

Finally, a few observations can be made about the method of State functional control over the municipalities. State level functional departments are very often interested in the development of the specific functions placed under their charge. As the examples of Tamil Nadu and Maharashtra point out, functional controls might go the whole hog of transforming the municipality into an integral part of the State Government, which in reality it is not. What is frequently forgotten is that the purpose of functional supervision, or for that matter general supervision, is not to emasculate municipal autonomy but to ensure functional efficiency. It is the acid test of State supervision to tactfully promote the latter without doing damage to the former. Unfortunately, the methods of State functional supervision are, many a time, extremely crude. Thus a State officer will be appointed to manage a municipal function, the municipality will be compelled to set apart a specific sum for a



particular function, even when the municipality is spending its own money a technical scheme will be compulsorily subjected to State technical control. Strangely enough, the Municipal Acts abound in provisions relating to inspection, calling for records, default action and so on. If these general powers of State supervision are methodically used, there may not be any need for the types of functional control mentioned above. Instead of entering into municipal government, it is possible to devise more sophisticated methods of State technical control that can be applied from outside. State technical inspection of municipal services, for instance, has not been properly developed in this country. A methodical and imaginative inspection system should be more advisory in nature than inquisitorial. The emphasis of inspection will have to be laid on timely guidance and not on finding faults. Another important method of control is a well-designed grants system. Specific or block grants may be so devised that these could be used both for the purpose of stimulating municipal services and for taking an erring municipality to task. By way of conclusion, it may be observed that State supervision is not an end in itself, it is a means to an end which is the preservation and promotion of municipal self-government. The ultimate test of the efficiency of a State department dealing with municipal government lies in its ability to achieve municipal functional efficiency by maintaining municipal autonomy and not by emasculating it.

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